

Jason E. Baker, Esq. (SBN: 197666)
 Brent Jex, Esq. (SBN: 235251)
KEEGAN & BAKER, LLP
 4370 La Jolla Village Drive, Suite 640
 San Diego, CA 92122
 Telephone: (858) 552-6750
 Facsimile: (858) 552-6749

Attorneys for Plaintiff and Class

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

WILLIAM SWIMAN, individually and on behalf of all other persons similarly situated and on behalf of the general public,)	Case No. 08cv806-WQH (NLS)
)	PLAINTIFF'S NOTICE OF MOTION AND MOTION TO REMAND
Plaintiff,)	
)	[Oral Argument Not Required]
vs.)	
)	Date: July 21, 2008
MORGAN SERVICES, INC., an Illinois corporation; and DOES 1 through 100, inclusive,)	Time: 11:00 a.m.
)	Place: Courtroom 4 (4th Floor)
Defendants.)	Judicial Officer: Hon. William Hayes

TO DEFENDANT AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on July 21, 2008 at 11:00 a.m., or as soon thereafter, in Courtroom 4 of the United State District Court, Southern District of California, located at 940 Front Street, San Diego, California 92101, Plaintiff William Swiman ("Plaintiff") will move this Court for an order remanding this case back to the Superior Court of California, County of San Diego, pursuant to 28 U.S.C. § 1447.

This motion is brought on the grounds that Plaintiff's complaint alleges claims against the named defendants arising solely under California law and there is no diversity of citizenship as between the named parties or federal question. Therefore, there is no subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and there is no diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Since this federal Court does not

1 have subject matter jurisdiction or diversity jurisdiction over this matter, this Court is
2 required to remand the case to state court pursuant to 28 U.S.C. § 1447(c).

3 This motion is based on this notice of motion and motion, and the accompanying
4 memorandum of points and authorities and declaration of William Swiman, all of which have
5 been served and filed herewith, as well as the defendant Morgan Services Inc.'s notice of
6 removal of action, the pleadings and papers on file herein, and upon such other matters as
7 may be presented to the Court at the time of the hearing.

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9 Dated: May 27, 2008

KEEGAN & BAKER, LLP

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11 s/Brent Jex
12 Jason E. Baker, Esq.
Brent Jex, Esq.

13 Attorneys for Representative
14 Plaintiff WILLIAM SWIMAN
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